



Project Start-up: What happens before construction begins

Virginia Department of Housing and Community Development (DHCD)
Program Administration and Assistance Office
Richmond, Virginia

January 8, 2013
12 Noon – 1 PM

1/7/2013

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Speakers

- › **Moderator and Host: Kyle Meyer**
Community Development Specialist, DHCD
Richmond, VA
kyle.meyer@dhcd.virginia.gov
- › **Instructor: Elizabeth Boehringer**
Community Development Specialist, DHCD
Richmond, VA
elizabeth.boehringer@dhcd.virginia.gov

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Webinar Format

- › The presentation will last approximately 40 minutes with periodic pauses for Q & A.
- › In order to hear the webinar, you **must** call in for audio at the following number **1-866-842-5779**.
- › The conference code number is **475 623 3278**.
- › Audience members are asked to press *6 to mute their volume due to the high number of participants.

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Audio Issues During the Webinar

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 - Logging off, then logging in again; or
 - Request help from the host through the chat box that will appear on your screen.

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How to Submit Questions

- ▶ Address your questions to the host through the chat box that will appear on your screen during the presentation. Technical questions will be addressed right away.
- ▶ We'll pause and take content questions at designated points during and after the presentation.

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FLS Brown Bag Webinar Series

Presented over the lunch hour, 12 to 1 p.m.

- ▶ February 12 — It's All in the Details: Reviewing payroll reports
- ▶ March 12 — Tools of the Trade: Logs, registers, and authorizations

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Learning Objectives

- Understand the federal labor standard activities that take place before construction starts
- Become aware of common challenges
- Know where to go for resources and questions

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Brief Survey

- Using the survey feature on your Webex webinar screen, please answer the simple survey:

Did you listen in to last month's webinar?

- a) Yes
- b) No

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Agenda

- Laws and Definitions
- The 9 Key Steps
- Common Challenges and Helpful Tips
- Resources

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What are the Federal Labor Standards?

Davis-Bacon and Related Acts

- Requires the payment of prevailing wage rates, including fringe benefits, as determined by the US DOL, to all laborers and mechanics on federally-funded constructions projects in excess of \$2,000
- Construction includes alterations and/or repairs, including painting and decorating, and housing rehab contracts of 8+ units

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Key Labor-related Statutory Provisions

Contract Work Hours and Safety Standards Act of 1962

- Requires "overtime" at a rate of 1 ½ times of a worker's basic rate of pay for all hours worked in excess of 40 hours in a work week
- Time off in lieu of overtime is not allowed

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Key Labor-related Statutory Provisions

Copeland "Anti-Kickback" Act

- Makes it a federal crime for anyone to use force, intimidation, or threats to force any laborer or worker working on a federally-financed project to give back any part of their wages to which they are entitled
- Requires a signed "Statement of Compliance" certifying workers have received all of their wages

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Key Laws

Additional Federal Construction Requirements

› Executive Order 11246, as amended

- Prohibits discrimination and requires affirmative action to ensure equal employment opportunity without regard to race, color, sex, religion and/or national origin
- Covers all contracts and subcontracts which exceed \$10,000

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Key Phrases

Definitions

› Contract Compliance Officer (CCO)

- The person responsible for ensuring compliance with the federal labor standards

› Wage Decision (WD)

- A listing of various construction work classifications and the *minimum* wages and fringe benefits that must be paid to anyone performing work in those classifications
- Established by US Department of Labor for defined geographic areas e.g. county or group of counties, and by various types of construction e.g.: highway, residential and heavy

› Federal Construction Contract Inserts

- Includes clauses regarding the contractor's obligation to observe the federal labor standards, which must be incorporated into the bid documents; mailed to CCO along with WD

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Key Phrases

Definitions

› Contract Award Notice

- Issued after the local governing body approves the award. States the award amount, the date and place of the pre-construction conference and the execution of the contract documents.

› Pre-construction Conference

- A formally scheduled meeting held after the contract award notice is issued. Bonds and insurance are submitted.

› Labor Standards Checklist

- Outlines the federal labor standards requirements. **Must be signed by the general contractor and all subcontractors.**

› Equal Opportunity Checklist

- Outlines EO construction requirements. **Must be signed by the general contractor and all subcontractors.**

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Pop Quiz

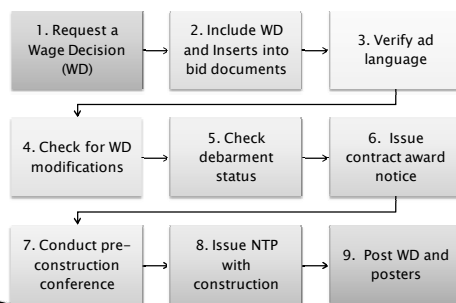
The FLS checklist only has to be signed by those who attend the pre-construction conference?

True or False?

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9 Key Steps



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Step 1

Request a Wage Decision

CIO WAGE RATE REQUEST

TO: Brill Bldg, Community Bldg, VA D4470 DATE: 06 / 09 / 11

FROM: Michael Paul Dodson, CPS, Inc. CIO #: 10-01

PROJECT NAME: Wing Street Warehouse/Industrial Parcel A/C20 CIO #/NTP:

PROJECT LOCATION: 3900-3900 S.W. Hwy 64, Box 200, Box 111-181-30 Advertising Date: 06 / 09 / 11

CITY/COUNTY NAME: Town of West Point, King William County Bid Opening Date: 07 / 15 / 11

Provide a specific description of ALL construction activities to be bid under this specific construction contract.

Activity Type	Quantity	Estimated CROSS Cost	Estimated Non-CROSS Cost	For BIDDING Use: (Owner, City, State, Postage, etc.)
Clearing				
Excavate				
Concrete				
Reinforcing				
Roofing				
Insulation				
Other Materials				
Total				

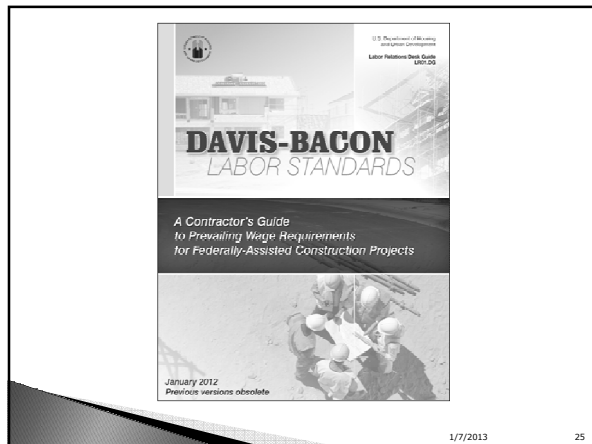
Mail Wage Decision Package to the Following Address:

Name: Michael Paul Dodson & Son, Wilson Address: 2201 West Broad Street, Box 204, Richmond VA 23220

Phone: 804-290-1028 Fax: 804-290-1028

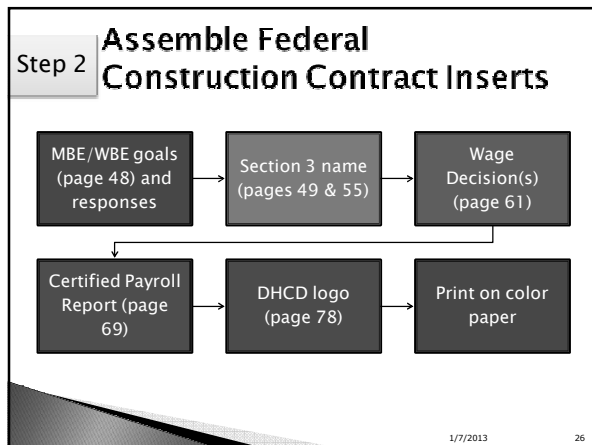
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Step 2 Assemble Federal Construction Contract Inserts

Timetables	Goals for minority participation in each trade	Goals for female participation in each trade
	12.8%	16.9%
	(Insert goals for each year.)	

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this covered area, the contractor shall be subject to the goals for both its Federally assisted and nonfederally assisted construction.

The Contractor's compliance with the Executive Order 12816, as amended, and the requirements in all CFR Parts shall be based on the implementation of the Federal Acquisition Regulation (FAR) specific affirmative action obligations required by the regulations set forth in 41 CFR 60-1.1(a)(1) and its efforts to meet the goals established for the geographical area where the contract is performed. From this solicitation it is to be performed. The focus of minority and female employment and training must be substantially uniform throughout the term of the contract, and in each year, and the contractor shall make a good faith effort to identify minorities and women evenly on each of its projects. The transfer of minority or female employees or workers from one project to another or from one project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-1.

Compliance with the goals will be measured against the total work hours performed.

c. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$15,000 in any year for construction work under the contract resulting from this solicitation. The notification shall be to the same address and telephone number of the subcontractor, employer identification

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Step 2

Assemble Federal Construction Contract Inserts

number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

d. As used in this Notice, and in the sentence resulting from this substitution, the word "contract" means the contract between the County of Rockingham and the Contractor, in which the project area is located.

3. **Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246, (Applicable to all contracts and subcontracts exceeding \$10,000))**

a. As used in these specifications:

- (1) "Contract area" means the geographical area described in the notification from which this contract resulted;
- (2) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor or any person to whom the Director delegates authority;
- (3) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- (4) "Minority" includes:
 - Black (all persons having origins in any of the Black-African racial groups not of Hispanic origin);
 - Asian or Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliation through ancestry and participation in community identification);
 - Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

b. Whenever the Contractor, or any subcontractor at any time, subcontracts a portion of the work involving any construction work, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the

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Step 2

Assemble Federal Construction Contract Inserts

Subpart E: Title VI of The Civil Rights Act of 1964, As Amended

No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Subpart F: Section 100 OF The Housing And Community Development Act Of 1974, As Amended

No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title, shall participate in any discrimination on the basis of age under the Fair Housing Act of 1974 or with regard to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

Subpart F: Section 2 OF The Housing And Urban Development Act Of 1968

(Applicable to all construction contracts in excess of \$100,000)

1. The Section 2 covered project area for this PROJECT is designated as the boundaries of the County of Rockingham, Virginia, in which the project area is located.
2. The purpose of Section 2 is to ensure that employment and other economic opportunities generated by Housing and Urban Development activity or HUD-financed projects covered by Section 1 shall, to the greatest extent feasible, be directed to low and very low income persons, particularly persons who are residents of HUD assistance for welfare.
3. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulation.
4. The contractor agrees to deal with each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitment under this Section 2 clause, and with press copies of the notice in compliance with the notice in which the contractor agreed to comply with the notice and

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Step 2

Assemble Federal Construction Contract Inserts

TO GRANTEE:

Note: Insert the Wage Decision(s) here.

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Step 3

Verify ad language

- Because this is a federally-funded project, the advertisement must state that the following applies:
 - the Davis-Bacon Act;
 - the Copeland "Anti Kickback" Act;
 - the Contract Work Hours and Safety Standards Act; and
 - the fact that not less than minimum wages set forth in the contract documents must be paid.

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Step 4

Verify WD has not been modified

Call 10 days before bid opening

Issue addendum if modified

Failure can lead to rebidding

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Step 4

Another Modification Check

- If a conditional or formal award of a construction contract is not issued within ninety (90) days of the date of the bid opening, the CCO must contact the Specialist to determine if the WD has been modified.
- If it has been, the modified wage decision must be incorporated into the contract documents

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Step 5 Check debarment status

- ▶ Contact CD Specialist and provide the ***all*** of the following information:
 - Name of proposed contractor (as it appears on DPOR license)
 - Business address of proposed contractor
 - Federal identification number
 - DPOR license number
- ▶ CD Specialist will check on the low bidder's eligibility to receive the contract award and send written confirmation

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Questions and Comments?

Use the chat feature to ask questions and communicate with everyone!



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Step 6 Issue Contract Award Notice

Local
Governing Body
awards
contract

Contract Award
Notice is
issued; "locks
in" WD

Copy of notice
is sent to your
CD Specialist

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Step 7

Identify needed additional job classifications

Required when a needed classification is not listed on the WD

- Classification must be used by the construction industry in project area

General Contractor submits all requests to Grantee

- Cover letter identifies needed classification(s) and proposed wage(s)
- Proposed wage(s) bears a reasonable relationship to existing wages

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Step 7

Additional conference topics

- Review required submissions:
 - Certified Payroll Reports
 - Authorization of Employee Payroll Deduction(s)
 - Employee Interviews

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Step 7

Additional conference topics

- More required submissions:
 - Register of Assigned Employees
 - Monthly Register of Contractors, Subcontractors and Suppliers
- Labor Relations and Equal Opportunity checklists signed and Section 3 Plan submitted

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Step 7 Additional conference topics

LABOR STANDARDS CHECKLIST
(to be completed initially at pre-construction conference)

- ☐ Contractors have reviewed and understood all Labor Standards contract provisions.
- ☐ Contractors have reviewed and understood wage decisions and job classifications.
- ☐ Contractors have been informed that all workers:
 - a) must be paid at least the appropriate minimum wage for the job classification;
 - b) must be paid time-and-a-half for all work beyond 40 hours per week;
 - c) must be paid at least weekly;
 - d) must perform only the work which is covered by the job classification they are hired and paid for. If a worker performs in more than one job classification, he must be paid either the wage of the highest paid job he works or time starts against the worker must document the amount of time worked in each job during the week.
- ☐ Contractors will inform all workers:
 - a) of their job classifications and duties;
 - b) of their wage rates and fringe benefits;
 - c) that they may be interviewed on the jobsite and are required to cooperate;
 - d) of disclosure from pay.
- ☐ Contractors will obtain each worker's name, permanent address, and social security number prior to assigning them to a job site.
- ☒ Contractors will obtain certification of any apprentices and trainees, including registration number and year of program, and will submit the same to the Public Body.
- ☐ Contractors are aware that they are responsible for the compliance of their subcontractors with Labor Standards provisions.
- ☐ Contractors must verify that the subcontractors (are) not debarred from Federal or State contracts.

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Step 7 Additional conference topics

EQUAL OPPORTUNITY CHECKLIST
(to be completed initially at preconstruction conference)

- ☐ Contractors have reviewed and understood Equal Opportunity/Section 3 contract provisions.
- ☐ Contractors must inform unions or other source of workers of Equal Opportunity requirements such as:
 - a) taking applications at job site; and
 - b) advertising in local or appropriate media.
- ☒ Contractors have received EEO-1 form "Register of Antidiscrimination" and "Register of Contractors, Subcontractors and Suppliers", and have been instructed to submit initial forms at start of construction and every month or part of month during the course of the contract.
- ☐ Contractors are aware of goals for utilization of minority and female workers.
- ☐ Contractors are aware that they are obligated to the greatest extent feasible to hire from increase project area residents as workers and trainees and to utilize project area businesses and businesses owned by project area residents.
- ☐ Prime contractor has been given Equal Opportunity poster and will display it in prominent place at job site(s).
- ☒ If contractors employ more than 50 persons and contract is over \$50,000 they have submitted form EEO-4 to the Joint Reporting Committee, P. O. Box 779, Norfolk, Virginia 23501, (804) 611-1211.

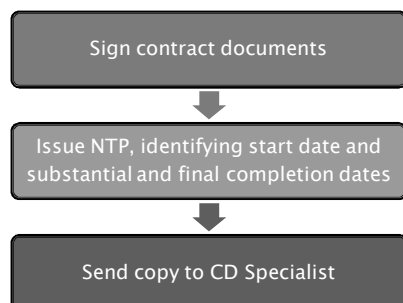
* Denotes those items which must be submitted by the Contractor.

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Step 8 Issue Notice to Proceed with Construction



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Step 9 Posting of WD and Posters

Insert
CCO's
name in
box

**EMPLOYEE RIGHTS
UNDER THE DAVIS-BACON ACT**
FOR LABORERS AND MECHANICS
EMPLOYED ON FEDERAL OR FEDERALLY
ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

RECALLING You must be paid not less than the wage rates listed in the Davis-Bacon Wage Decision posted with this notice for the work you perform.

OVERTIME You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are two exceptions.

ENFORCEMENT Contract payments can be withheld to ensure workers receive wages and overtime pay due. Any fraudulent charges may result in criminal penalties and civil penalties. Contractors who violate these provisions, along with contractors who fail to post this notice, may be subject to civil or criminal penalties. These penalties may include imprisonment, fines, and/or civil penalties.

APPRENTICES Apprentices shall only be employed on projects registered under approved Federal or State apprenticeship programs.

PROPER PAY If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below.

or contact the U.S. Department of Labor's Wage and Hour Division

For additional information
1-866-4-USWAGE **WHD**
U.S. DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

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Step 9 Posting of WD and Posters



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Pop Quiz

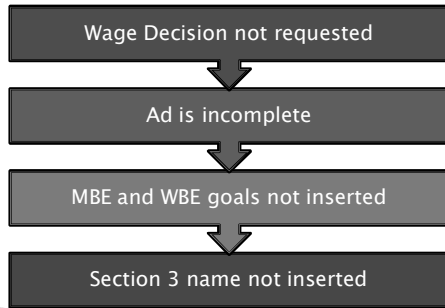
The typical wage decision lock-in date is:

- A. The bid opening date
- B. The contract execution date
- C. The Notice to proceed with construction date
- D. None of the above

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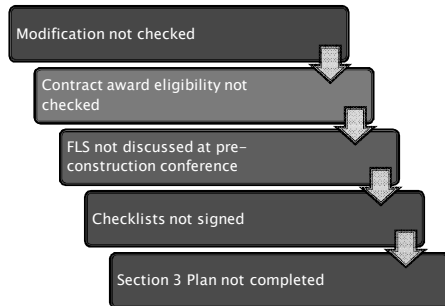
Common Challenges



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Common Challenges



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Bottom Line

Regardless of any consultant, the Grantee is responsible for ensuring someone is **actively** overseeing any and all construction contracts and that contractors are complying with FLS requirements!

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Great References

- › Distribute *Davis-Bacon Labor Standards: A contractor's guide...* to all payroll clerks
- › And, keep a copy for yourself
- › Use the *Construction and Labor Standards Checklist*
- › Read Chapter 8 of the *Grant Management Manual*

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Tips and Helpful Hints

- › Sign up for the mailing list of HUD's Office of Labor Standards at http://portal.hud.gov/hudportal/HUD?src=/program_offices/labor_relations
- › Register for the two upcoming brown bag FLS webinars

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Other Resources

- › DOL Forms
 - www.dol.gov/whd/programs/dbra/forms.htm
- › HUD forms
- › www.hud.gov/offices/adm/hudclips/index.cfm
- › *Labor Standards Post-Contract Compliance* checklist
- › When in doubt – contact your Community Development Specialist

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Questions and Comments?

Use the chat feature to ask questions and communicate with everyone!



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Thank You for Participating

- ▶ Recording of the webinar will be posted on DHCD's website on the CDBG Training Archive page:
<http://www.dhcd.virginia.gov/index.php/cdbg-training-archive.html>
- ▶ You will shortly be receiving an e-mail with the hyperlink to the webinar evaluation form. ***Thank you in advance for taking the time to give us your valuable feedback.***

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